

SENATE, No. 345

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Concerns development of accessory dwelling units.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/28/2022)

1 **AN ACT** concerning accessory dwelling units, supplementing and
2 amending P.L.1975, c.291, and amending P.L.1985, c.222.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. Section 3 of P.L.1975, c.291 (C.40:55D-3) is amended to read
8 as follows:

9 For the purposes of this act, unless the context clearly indicates a
10 different meaning:

11 The term "shall" indicates a mandatory requirement, and the term
12 "may" indicates a permissive action.

13 "Accessory dwelling unit" means a second dwelling unit that:

14 (1) is attached or detached, or located within or appurtenant to a
15 permitted principal dwelling unit or single-family dwelling;

16 (2) is located on the same lot as a permitted principal dwelling
17 unit;

18 (3) contains no less than 30 percent of the net floor area of the
19 principal dwelling unit, or one thousand square feet, whichever is
20 less; and

21 (4) has facilities and provisions for independent living, including
22 space for sleeping, food preparation, and sanitation.

23 "Administrative officer" means the clerk of the municipality,
24 unless a different municipal official or officials are designated by
25 ordinance or statute.

26 "Agricultural restriction" means an "agricultural deed restriction
27 for farmland preservation purposes" as defined in section 3 of
28 P.L.1983, c.32 (C.4:1C-13).

29 "Agricultural land" means "farmland" as defined pursuant to
30 section 3 of P.L.1999, c.152 (C.13:8C-3).

31 "Applicant" means a developer submitting an application for
32 development.

33 "Application for development" means the application form and all
34 accompanying documents required by ordinance for approval of a
35 subdivision plat, site plan, planned development, cluster
36 development, conditional use, zoning variance or direction of the
37 issuance of a permit pursuant to section 25 or section 27 of P.L.1975,
38 c.291 (C.40:55D-34 or C.40:55D-36).

39 "Approving authority" means the planning board of the
40 municipality, unless a different agency is designated by ordinance
41 when acting pursuant to the authority of P.L.1975, c.291 (C.40:55D-
42 1 et seq.).

43 "Board of adjustment" means the board established pursuant to
44 section 56 of P.L.1975, c.291 (C.40:55D-69).

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Building" means a combination of materials to form a
2 construction adapted to permanent, temporary, or continuous
3 occupancy and having a roof.

4 "Cable television company" means a cable television company as
5 defined pursuant to section 3 of P.L.1972, c.186 (C.48:5A-3).

6 "Capital improvement" means a governmental acquisition of real
7 property or major construction project.

8 "Circulation" means systems, structures and physical
9 improvements for the movement of people, goods, water, air, sewage
10 or power by such means as streets, highways, railways, waterways,
11 towers, airways, pipes and conduits, and the handling of people and
12 goods by such means as terminals, stations, warehouses, and other
13 storage buildings or transshipment points.

14 "Cluster development" means a contiguous cluster or
15 noncontiguous cluster that is not a planned development.

16 "Common open space" means an open space area within or related
17 to a site designated as a development, and designed and intended for
18 the use or enjoyment of residents and owners of the development.
19 Common open space may contain such complementary structures and
20 improvements as are necessary and appropriate for the use or
21 enjoyment of residents and owners of the development.

22 "Conditional use" means a use permitted in a particular zoning
23 district only upon a showing that such use in a specified location will
24 comply with the conditions and standards for the location or
25 operation of such use as contained in the zoning ordinance, and upon
26 the issuance of an authorization therefor by the planning board.

27 "Conservation restriction" means a "conservation restriction" as
28 defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

29 "Contiguous cluster" means a contiguous area to be developed as
30 a single entity according to a plan containing a section or sections to
31 be developed for residential purposes, nonresidential purposes, or a
32 combination thereof, at a greater concentration of density or intensity
33 of land use than authorized within the section or sections under
34 conventional development, in exchange for the permanent
35 preservation of another section or other sections of the area as
36 common or public open space, or for historic or agricultural purposes,
37 or a combination thereof.

38 "Conventional" means development other than cluster
39 development or planned development.

40 "County agriculture development board" or "CADB" means a
41 county agriculture development board established by a county
42 pursuant to the provisions of section 7 of P.L.1983, c.32 (C.4:1C-14).

43 "County master plan" means a composite of the master plan for
44 the physical development of the county in which the municipality is
45 located, with the accompanying maps, plats, charts and descriptive
46 and explanatory matter adopted by the county planning board
47 pursuant to R.S.40:27-2 and R.S.40:27-4.

1 "County planning board" means the county planning board, as
2 defined in section 1 of P.L.1968, c.285 (C.40:27-6.1), of the county
3 in which the land or development is located.
4 (cf: P.L.2013, c.106, s.2)

5
6 2. (New section) a. An accessory dwelling unit shall be
7 permitted on a lot that contains a single-family dwelling. A
8 municipality may, but shall not be required to restrict occupancy of
9 an accessory dwelling unit to low- and moderate-income households.

10 b. A municipal zoning ordinance may require a principal dwelling
11 unit with an accessory dwelling unit to be subject to the same
12 dimensional controls and other controls, except for residential
13 density controls, as are required for the same principal dwelling unit
14 without the accessory dwelling unit, as long as such restrictions do
15 not altogether prohibit the construction of an accessory dwelling unit
16 on any individual lot that contains a single-family dwelling, in
17 violation of subsection a. of this section.

18 c. A municipal zoning ordinance shall be prohibited from
19 requiring:

20 (1) a passageway between an accessory dwelling unit and a
21 principal dwelling unit;

22 (2) an exterior door for an accessory dwelling;

23 (3) any more than one parking space for an accessory dwelling
24 unit;

25 (4) a familial, marital, or employment relationship between
26 occupants of a principal dwelling unit and an accessory dwelling unit;

27 (5) a minimum age requirement for occupants of an accessory
28 dwelling unit;

29 (6) a separate billing of utilities otherwise connected to, or used
30 by, the principal dwelling unit; or

31 (7) periodic renewals for permits for accessory dwelling units.

32 d. Nothing in this section shall exempt an accessory dwelling
33 unit from:

34 (1) applicable building code requirements pursuant to the "State
35 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et
36 seq.);

37 (2) the ability of a municipality to prohibit or limit the use of an
38 accessory dwelling unit for short-term rentals or vacation stays; or

39 (3) sewerage system related requirements where a private
40 sewerage system is being used, provided that approval for an
41 accessory dwelling unit shall not be unreasonably withheld.

42 e. A municipal agency shall not condition the approval of an
43 accessory dwelling unit on the correction of a nonconforming use,
44 structure or lot, or require the installation of fire sprinklers in an
45 accessory dwelling unit if sprinklers are not required for the principal
46 dwelling unit located on the same lot.

47 f. An accessory dwelling unit shall not be considered a new
48 residential use for the purpose of calculating or imposing connection

1 fees or capacity charges for a purveyor of water and sewer service,
2 unless the accessory dwelling unit is constructed together with a new
3 single-family dwelling unit on the same lot, or requires the
4 installation of a new or separate utility connection directly to the
5 accessory dwelling unit.

6 g. A municipality may amend its land use regulations to comply
7 with the provisions of "Municipal Land Use Law," P.L.1975, c.291
8 (C.40:55D-1 et seq.), prior to January 1, 2023. On and after January
9 1, 2023, any provision of a municipality's land use regulations that
10 are inconsistent with the provisions of P.L. , c. (C.) (pending
11 before the Legislature as this bill) or other regulation shall be null
12 and void and a municipal agency shall approve or deny applications
13 for the development of accessory dwelling units in accordance with
14 the requirements for regulations set forth under the provisions of
15 P.L. , c. (C.) (pending before the Legislature as this bill). A
16 municipality may not impose additional standards beyond those set
17 forth in this section related to the regulation of accessory dwelling
18 units.

19 h. The governing body of a municipality, by a two-thirds vote of
20 the full authorized membership, may opt out of all or some of the
21 provisions of this section regarding the allowance of accessory
22 dwelling units, provided the governing body:

23 (1) convenes a public hearing on the proposal to opt out prior to
24 the vote;

25 (2) states upon its record the reasons for the governing body's
26 decision opting out of the requirements; and

27 (3) not later than fifteen days after such decision has been
28 rendered, notifies the Division of Local Government Services in the
29 Department of Community Affairs that the municipality has elected
30 to opt out of the requirements and publishes notice of such decision
31 in the official newspaper of the municipality, if there be one, or in a
32 newspaper of general circulation in the municipality.

33
34 3. (New section) a. A zoning ordinance shall not:

35 (1) establish for any dwelling unit a minimum floor area that is
36 greater than the minimum floor area set pursuant to the "State
37 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et
38 seq.) and any regulations adopted thereafter; *and*

39 (2) require more than one parking space for each studio or one-
40 bedroom dwelling unit, or more than two parking spaces for each
41 dwelling unit with two or more bedrooms, unless the municipality
42 opts out in accordance with subsection b. of this section.

43 b. The governing body of a municipality, by a two-thirds vote of
44 the full authorized membership, may opt out of the provision of
45 subparagraph (2) of subsection a. of this section regarding limitations
46 on parking spaces for dwelling units, provided the governing body:

47 (1) convenes a public hearing on the proposal to opt out prior to
48 the vote;

1 (2) states upon its record the reasons for the governing body's
2 decision opting out of the requirements; and

3 (3) not later than fifteen days after such decision has been
4 rendered, notifies the Division of Local Government Services in the
5 Department of Community Affairs that the municipality has elected
6 to opt out of the requirements and publishes notice of such decision
7 in the official newspaper of the municipality, if there be one, or in a
8 newspaper of general circulation in the municipality.

9
10 4. Section 4 of P.L.1985, c.222 (C.52:27D-304) is amended to
11 read as follows:

12 4. As used in P.L.1985, c.222 (C.52:27D-301 et al.):

13 a. "Council" means the Council on Affordable Housing
14 established in P.L.1985, c.222 (C.52:27D-301 et al.), which shall
15 have primary jurisdiction for the administration of housing
16 obligations in accordance with sound regional planning
17 considerations in this State.

18 b. "Housing region" means a geographic area of not less than
19 two nor more than four contiguous, whole counties which exhibit
20 significant social, economic and income similarities, and which
21 constitute to the greatest extent practicable the primary metropolitan
22 statistical areas as last defined by the United States Census Bureau
23 prior to the effective date of P.L.1985, c.222 (C.52:27D-301 et al.).

24 c. "Low income housing" means housing affordable according
25 to federal Department of Housing and Urban Development or other
26 recognized standards for home ownership and rental costs and
27 occupied or reserved for occupancy by households with a gross
28 household income equal to 50 percent or less of the median gross
29 household income for households of the same size within the housing
30 region in which the housing is located.

31 d. "Moderate income housing" means housing affordable
32 according to federal Department of Housing and Urban Development
33 or other recognized standards for home ownership and rental costs
34 and occupied or reserved for occupancy by households with a gross
35 household income equal to more than 50% but less than 80 percent
36 of the median gross household income for households of the same
37 size within the housing region in which the housing is located.

38 e. "Resolution of participation" means a resolution adopted by a
39 municipality in which the municipality chooses to prepare a fair share
40 plan and housing element in accordance with P.L.1985, c.222
41 (C.52:27D-301 et al.).

42 f. "Inclusionary development" means a residential housing
43 development in which a substantial percentage of the housing units
44 are provided for a reasonable income range of low and moderate
45 income households.

46 g. "Conversion" means the conversion of existing commercial,
47 industrial, or residential structures for low and moderate income
48 housing purposes where a substantial percentage of the housing units

1 are provided for a reasonable income range of low and moderate
2 income households.

3 h. "Development" means any development for which permission
4 may be required pursuant to the "Municipal Land Use Law,"
5 P.L.1975, c.291 (C.40:55D-1 et seq.).

6 i. "Agency" means the New Jersey Housing and Mortgage
7 Finance Agency established by P.L.1983, c.530 (C.55:14K-1 et seq.).

8 j. "Prospective need" means a projection of housing needs based
9 on development and growth which is reasonably likely to occur in a
10 region or a municipality, as the case may be, as a result of actual
11 determination of public and private entities. In determining
12 prospective need, consideration shall be given to approvals of
13 development applications, real property transfers, and economic
14 projections prepared by the State Planning Commission established
15 by sections 1 through 12 of P.L.1985, c.398 (C.52:18A-196 et seq.).

16 k. "Person with a disability" means a person with a physical
17 disability, infirmity, malformation, or disfigurement which is caused
18 by bodily injury, birth defect, aging, or illness including epilepsy and
19 other seizure disorders, and which shall include, but not be limited
20 to, any degree of paralysis, amputation, lack of physical coordination,
21 blindness or visual impairment, deafness or hearing impairment, the
22 inability to speak or a speech impairment, or physical reliance on a
23 service animal, wheelchair, or other remedial appliance or device.

24 l. "Adaptable" means constructed in compliance with the
25 technical design standards of the barrier free subcode adopted by the
26 Commissioner of Community Affairs pursuant to the "State Uniform
27 Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.) and
28 in accordance with the provisions of section 5 of P.L.2005, c.350
29 (C.52:27D-123.15).

30 m. "Very low income housing" means housing affordable
31 according to federal Department of Housing and Urban Development
32 or other recognized standards for home ownership and rental costs
33 and occupied or reserved for occupancy by households with a gross
34 household income equal to 30 percent or less of the median gross
35 household income for households of the same size within the housing
36 region in which the housing is located.

37 n. "Accessory dwelling unit" means a second dwelling unit that:

38 (1) is attached or detached, or located within or appurtenant to a
39 permitted principal dwelling unit or single-family dwelling;

40 (2) is located on the same lot as a permitted principal dwelling
41 unit;

42 (3) contains no less than 30 percent of the net floor area of the
43 principal dwelling unit, or one thousand square feet, whichever is
44 less; and

45 (4) has facilities and provisions for independent living, including
46 space for sleeping, food preparation, and sanitation.

47 (cf: P.L.2017, c.131, s.199)

1 5. Section 10 of P.L.1985, c.222 (C.52:27D-310) is amended to
2 read as follows:

3 10. A municipality's housing element shall be designed to achieve
4 the goal of access to affordable housing to meet present and
5 prospective housing needs, with particular attention to low and
6 moderate income housing, and shall contain at least:

7 a. An inventory of the municipality's housing stock by age,
8 condition, purchase or rental value, occupancy characteristics, and
9 type, including the number of units affordable to low and moderate
10 income households and substandard housing capable of being
11 rehabilitated, and in conducting this inventory the municipality shall
12 have access, on a confidential basis for the sole purpose of
13 conducting the inventory, to all necessary property tax assessment
14 records and information in the assessor's office, including but not
15 limited to the property record cards;

16 b. A projection of the municipality's housing stock, including the
17 probable future construction of low and moderate income housing,
18 for the next ten years, taking into account, but not necessarily limited
19 to, construction permits issued, approvals of applications for
20 development and probable residential development of lands;

21 c. An analysis of the municipality's demographic characteristics,
22 including but not necessarily limited to, household size, income level
23 and age;

24 d. An analysis of the existing and probable future employment
25 characteristics of the municipality;

26 e. A determination of the municipality's present and prospective
27 fair share for low and moderate income housing and its capacity to
28 accommodate its present and prospective housing needs, including
29 its fair share for low and moderate income housing; and

30 f. A consideration of the lands that are most appropriate for
31 construction of low and moderate income housing and of the existing
32 structures most appropriate for conversion to, or rehabilitation for,
33 low and moderate income housing, including:

34 (1) a consideration of lands of developers who have expressed a
35 commitment to provide low and moderate income housing, and

36 (2) a consideration of lands and existing structures that are
37 appropriate for the development of accessory dwelling units for low-
38 and moderate-income housing.

39 (cf: P.L.2001, c.435, s.2)

40

41 6. Section 11 of P.L.1985, c.222 (C.52:27D-311) is amended to
42 read as follows:

43 11. a. In adopting its housing element, the municipality may
44 provide for its fair share of low and moderate income housing by
45 means of any technique or combination of techniques which provide
46 a realistic opportunity for the provision of the fair share. The housing
47 element shall contain an analysis demonstrating that it will provide
48 such a realistic opportunity, and the municipality shall establish that

1 its land use and other relevant ordinances have been revised to
2 incorporate the provisions for low and moderate income housing. In
3 preparing the housing element, the municipality shall consider the
4 following techniques for providing low and moderate income
5 housing within the municipality, as well as such other techniques as
6 may be published by the council or proposed by the municipality:

7 (1) Rezoning for densities necessary to assure the economic
8 viability of any inclusionary developments, either through mandatory
9 set-asides or density bonuses, as may be necessary to meet all or part
10 of the municipality's fair share in accordance with the regulations of
11 the council and the provisions of subsection h. of this section;

12 (2) Determination of the total residential zoning necessary to
13 assure that the municipality's fair share is achieved;

14 (3) Determination of measures that the municipality will take to
15 assure that low and moderate income units remain affordable to low
16 and moderate income households for an appropriate period of not less
17 than six years;

18 (4) A plan for infrastructure expansion and rehabilitation if
19 necessary to assure the achievement of the municipality's fair share
20 of low and moderate income housing;

21 (5) Donation or use of municipally owned land or land
22 condemned by the municipality for purposes of providing low and
23 moderate income housing;

24 (6) Tax abatements for purposes of providing low and moderate
25 income housing;

26 (7) Utilization of funds obtained from any State or federal
27 subsidy toward the construction of low and moderate income
28 housing;

29 (8) Utilization of municipally generated funds toward the
30 construction of low and moderate income housing; and

31 (9) The purchase of privately owned real property used for
32 residential purposes at the value of all liens secured by the property,
33 excluding any tax liens, notwithstanding that the total amount of debt
34 secured by liens exceeds the appraised value of the property, pursuant
35 to regulations promulgated by the Commissioner of Community
36 Affairs pursuant to subsection b. of section 41 of P.L.2000, c.126
37 (C.52:27D-311.2).

38 b. The municipality may provide for a phasing schedule for the
39 achievement of its fair share of low and moderate income housing.

40 c. (Deleted by amendment, P.L.2008, c.46)

41 d. Nothing in P.L.1985, c.222 (C.52:27D-301 et al.) shall require
42 a municipality to raise or expend municipal revenues in order to
43 provide low and moderate income housing.

44 e. When a municipality's housing element includes the provision
45 of rental housing units in a community residence for the
46 developmentally disabled, as defined in section 2 of P.L.1977, c.448
47 (C.30:11B-2), which will be affordable to persons of low and
48 moderate income, and for which adequate measures to retain such

1 affordability pursuant to paragraph (3) of subsection a. of this section
2 are included in the housing element, those housing units shall be fully
3 credited as permitted under the rules of the council towards the
4 fulfillment of the municipality's fair share of low and moderate
5 income housing.

6 f. It having been determined by the Legislature that the
7 provision of housing under P.L.1985, c.222 (C.52:27D-301 et al.) is
8 a public purpose, a municipality or municipalities may utilize public
9 monies to make donations, grants or loans of public funds for the
10 rehabilitation of deficient housing units and the provision of new or
11 substantially rehabilitated housing for low and moderate income
12 persons, providing that any private advantage is incidental.

13 g. A municipality which has received substantive certification
14 from the council, and which has actually effected the construction of
15 the affordable housing units it is obligated to provide, may amend its
16 affordable housing element or zoning ordinances without the
17 approval of the council.

18 h. Whenever affordable housing units are proposed to be
19 provided through an inclusionary development, a municipality shall
20 provide, through its zoning powers, incentives to the developer,
21 which shall include increased densities and reduced costs, in
22 accordance with the regulations of the council and this subsection.

23 i. The council, upon the application of a municipality and a
24 developer, may approve reduced affordable housing set-asides or
25 increased densities to ensure the economic feasibility of an
26 inclusionary development.

27 j. A municipality may enter into an agreement with a developer
28 or residential development owner to provide a preference for
29 affordable housing to low to moderate income veterans who served
30 in time of war or other emergency, as defined in section 1 of
31 P.L.1963, c.171 (C.54:4-8.10), of up to 50 percent of the affordable
32 units in that particular project. This preference shall be established
33 in the applicant selection process for available affordable units so that
34 applicants who are veterans who served in time of war or other
35 emergency, as referenced in this subsection, and who apply within 90
36 days of the initial marketing period shall receive preference for the
37 rental of the agreed-upon percentage of affordable units. After the
38 first 90 days of the initial 120-day marketing period, if any of those
39 units subject to the preference remain available, then applicants from
40 the general public shall be considered for occupancy. Following the
41 initial 120-day marketing period, previously qualified applicants and
42 future qualified applicants who are veterans who served in time of
43 war or other emergency, as referenced in this subsection, shall be
44 placed on a special waiting list as well as the general waiting list.
45 The veterans on the special waiting list shall be given preference for
46 affordable units, as the units become available, whenever the
47 percentage of preference-occupied units falls below the agreed upon
48 percentage. Any agreement to provide affordable housing

1 preferences for veterans pursuant to this subsection shall not affect a
2 municipality's ability to receive credit for the unit from the council,
3 or its successor.

4 k. An accessory dwelling unit built or permitted after January 1,
5 2022, shall only be credited towards a municipality's fair share
6 affordable housing obligation as the equivalent of a studio apartment,
7 which is affordable to a one person household.

8 (cf: P.L.2013, c.6, s.1)

9
10 7. This act shall take effect immediately.

11
12
13 STATEMENT

14
15 The bill concerns the development of accessory dwelling units.

16 Under this bill, an accessory dwelling unit would be permitted on
17 a lot that contains a single-family dwelling. The bill allows a
18 municipality to restrict occupancy of an accessory dwelling unit to
19 those who qualify for low and moderate income housing.

20 The bill provides a municipal zoning ordinance may require a
21 principal dwelling unit with an accessory dwelling unit to be subject
22 to the same dimensional controls and other controls as are required
23 for the same principal dwelling unit without the accessory dwelling
24 unit, as long as such restrictions do not prohibit the construction of
25 accessory dwelling units, as specified in the bill.

26 Under this bill a municipal zoning ordinance would be prohibited
27 from requiring:

28 (1) a passageway between an accessory dwelling unit and a
29 principal dwelling unit;

30 (2) an exterior door for an accessory dwelling;

31 (3) any more than one parking space for an accessory dwelling
32 unit;

33 (4) a familial, marital, or employment relationship between
34 occupants of a principal dwelling unit and an accessory dwelling unit;

35 (5) a minimum age requirement for occupants of an accessory
36 dwelling unit;

37 (6) a separate billing of utilities otherwise connected to, or used
38 by, the principal dwelling unit; or

39 (7) periodic renewals for permits for accessory dwelling units.

40 The bill provides, however, that an accessory dwelling unit is not
41 exempt from:

42 (1) applicable building code requirements;

43 (2) restrictions on the use of an accessory dwelling unit for short-
44 term rentals or vacation stays; or

45 (3) sewerage system related requirements where a private
46 sewerage system is being used, provided that approval for an
47 accessory dwelling unit shall not be unreasonably withheld.

1 The bill requires that a municipal agency not condition the
2 approval of an accessory dwelling unit on the correction of a
3 nonconforming use, structure or lot, or require the installation of fire
4 sprinklers in an accessory dwelling unit if sprinklers are not required
5 for the principal dwelling unit located on the same developable site.

6 Under the bill, an accessory dwelling unit would not be considered
7 a new residential use for the purpose of calculating or imposing
8 connection fees or capacity charges for a purveyor of water and sewer
9 service, unless the accessory dwelling unit is constructed together
10 with a new single-family dwelling unit on the same lot, or requires
11 the installation of a new or separate utility connection directly to the
12 accessory dwelling unit.

13 The bill provides that a municipality may amend its land use
14 regulations to comply with the provisions of "Municipal Land Use
15 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), prior to January 1, 2023.
16 On and after January 1, 2023, any provision of a municipality's land
17 use regulations that are inconsistent with the provisions of the bill or
18 other regulation would be null and void and a municipal agency
19 would approve or deny applications for the development of accessory
20 dwelling units in accordance with the requirements for regulations
21 set forth under the bill. Under the bill, a municipality is prohibited
22 from imposing additional standards related to the regulation of
23 accessory dwelling units, except as provided for in the bill.

24 Under the bill the governing body of a municipality, by a two-
25 thirds vote of the full authorized membership, may opt out of the
26 allowance of accessory dwelling units, provided the governing body:

- 27 (1) convenes a public hearing;
28 (2) states upon its record the reasons for opting out; and
29 (3) not later than fifteen days after such decision has been
30 rendered, notifies the Division of Local Government Services in the
31 Department of Community Affairs (DCA) that the municipality has
32 elected to opt out of the requirements and publishes notice of such
33 decision in the official newspaper of the municipality, if there be one,
34 or in a newspaper of general circulation in the municipality.

35 The bill also prohibits a zoning ordinance from:

- 36 (1) establishing for any dwelling unit a minimum floor area that
37 is greater than the minimum floor area set; and
38 (2) requiring more than one parking space for each studio or one-
39 bedroom dwelling unit, or more than two parking spaces for each
40 dwelling unit with two or more bedrooms, unless the municipality
41 opts out. The governing body of a municipality, by a two-thirds vote
42 of the full authorized membership, may opt out regarding limitations
43 on parking spaces for dwelling units, provided the governing body:

- 44 (1) convenes a public hearing;
45 (2) states upon its record the reasons for opting out; and
46 (3) not later than fifteen days after such decision has been
47 rendered, notifies DCA that the municipality has elected to opt out of
48 the requirements and publishes notice of such decision in the official

1 newspaper of the municipality, if there be one, or in a newspaper of
2 general circulation in the municipality.

3 The bill would also amend the "Fair Housing Act," P.L.1985,
4 c.222 (C.52:27D-301 et al.), to require a municipality's master plan
5 housing element to contain a consideration of lands and existing
6 structures that are appropriate for the development of accessory
7 dwelling units that can provide low- and moderate-income housing,
8 and to provide that accessory dwelling units built or permitted after
9 January 1, 2022, would only be credited towards a municipality's fair
10 share affordable housing obligation as the equivalent of a studio
11 apartment, which is affordable to a one person household.